



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/311,464	05/13/1999	MARTIN A. FREILICH	JPP-1231	1257

7590

08/11/2005

ANN M KNAB  
53 NORTH PLAINS INDUSTRIAL ROAD  
WALLINGFORD, CT 06492

EXAMINER
----------

LUCCHESI, NICHOLAS D

ART UNIT	PAPER NUMBER
----------	--------------

3763

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

88

## Office Action Summary

Application No.

09/311,464

Applicant(s)

FREILICH ET AL.

Examiner

Nicholas D. Lucchesi

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-48 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/4/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,12,16,17,26,27,29,30,32,45,46,47,48 are rejected under 35 U.S.C. 102(b) as being anticipated by Seal (newly cited).

Seal discloses a cylinder 16 designed to retain a structural framework material for an implant system, comprising a substantially cylindrical body 21 and one or more shelves (grooves) 18,21 having at least two sides disposed on a surface of the body.

With regard to claims 2,3,16,27,32,45,46 note vertical groove 21 located on a proximal surface and horizontal grooves 18 located on facial and lingual sides of the body.

With regard to claim 4, note opening 22 extending vertically through the body.

With regard to claims 17,47 Seal discloses that the cylinders may be used with implants. Also note abutment 10 which is attached to the cylinder.

Claim 43 is rejected under 35 U.S.C. 102(b) as being anticipated by Hansen (newly cited).

Hansen discloses a cylinder 32 comprising a cylindrical body, a groove 39 having two sides, and a cantilever 12 extending from the body (when assembled).

Claims 1 and 19 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlsson et al.

Carlsson et al disclose a cylinder 1 having grooves therein (the spaces between portions 6). Carlsson et al disclose that the cylinder may be formed of a plastic material. See col. 3, lines 5 and 6. With regard to claim 44, note nodules 6 formed on the body.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,6,7,8,10,11,13,14,15,18,20,21,22,23,24,25,28,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seal in view of Names (previously cited).

Seal discloses the cylinder and implant system as claimed in these claims, but fails to disclose the composite material held by the cylinders to be a fiber reinforced composite material.

Names discloses an abutment system used to retain a framework for a prosthesis. The framework retains a fiber-reinforced composite material.

It would have been obvious to one skilled in the art to use a fiber reinforced composite material with the cylinder and implant system of Seal, as disclosed by

Art Unit: 3764

Names, if one wished for greater strength of the composite material held by the cylinder and implant system.

***Allowable Subject Matter***

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3764

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Nicholas D. Lucchesi at telephone number 571-272-4977.

A handwritten signature in black ink, appearing to read 'N. Lucchesi', with a long horizontal flourish extending to the right.

**NICHOLAS D. LUCCHESI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700**